

REMARKS

Applicants reply to the Office Action dated July 27, 2010. Claims 1-3, 5-7, 9-10, 12-14, and 18-26 were pending in the application. Applicants add new claims 27-29. Support for the amendments and new claims may be found in the originally-filed specification, claims, and figures. No new matter has been introduced by the amendments and new claims. Reconsideration of this application is respectfully requested.

The Examiner objects to claims 24-26 due to informalities. The Examiner asserts that the requirement of having a "recessed portion" "raised" is confusing, as a recess normally implies aperture or indentation in a surface. Applicants respectfully disagree; however, Applicants amend the claims to expedite prosecution and to clarify the patentable aspects of the claims.

Applicants assert that, as the amended claims 24-26 describe that "the recessed portion provided forms an indentation in a plane defined by the remaining portion of the first grasping plate," such a "recess" is in line with the illustration in Figs. 2-4 and 6 of the present specification and should be clear to one skilled in the art. Accordingly, the above informality rejection should be rendered withdrawn.

The Examiner rejects claims 1, 5-7, 9, 10, 12-14 and 18-26 under 35 USC 102(b) as being anticipated by previously cited Kees, Jr., et al, US Patent No. 4,340,061 ("Kees"). Specifically, the Examiner alleges that the Applicant's previously presented amendments and new claims 21-23 only add functional language that fails to define the structural characteristics of the claimed invention over the prior art. In particular, the Examiner alleges that the prior art structure disclosed in Kees is capable of performing the intended use of the claimed invention. Applicants respectfully disagree; however, Applicants amend the claims to expedite prosecution and to clarify the patentable aspects of the claims.

For example, Applicants amend claims 24-26 to recite "wherein the recessed portion provided ~~is raised relative to~~ forms an indentation in a plane defined by the remaining portion of the first grasping plate, and the curved portion is raised relative to the remaining portion of the second grasping plate, to form [[a]] the generally tubular tissue grasping space with the opposed recessed portion for grasping blood vessels." Support for this amendment can be found at, for example, Figs. 2, 3, 4, and 6 and the associated text in the specification.

Applicants amend claims 1 and 5 to characterize the opening in the first grasping plate as being "U-shape or substantially a U-shape." Support for this amendment can be found at, for

example, paragraphs [0068]-[0069] of the specification, as well as the drawings in Figs. 2-4 and 8-12.

Applicants amend claims 1, 5 and 6 to state that the shape of the opening is defined by "two edge portions each having an elongated end portion, the two edge portions together forming the peripheral portion of the opening to define the shape of the opening, and the end portion of the edge portion having a length and being adapted to be inserted into a tube of the tubular tissue for grasping the tubular tissue." Support for this amendment can be found at, for example, paragraphs [0069] of the specification and the drawings in Figs. 2-4 and 8-12.

Applicants amend claims 1, 5 and 6 to recite "generally tubular tissue grasping space", and further specify that this tissue grasping space and the opening in the first grasping plate are provided at opposing sides of the grasping member. Support for this amendment can be found at, for example, the drawings in Figs. 2-6 and 8-12.

Applicants amend claims 13 and 25 to state that "the generally tubular tissue grasping space is formed by a recessed portion on the first grasping plate and a curved portion on the second grasping plate, when the first grasping plate and the second grasping plate are positioned so as to oppose one another," to give a proper antecedent basis for the "recessed portion" or "curved portion" in the claims. Support for these amendments can be found at, for example, paragraph [0070] of the specification and claim 1 as originally filed.

Applicants add new claims 27-29 which are respectively dependent from claims 1, 5, and 6 and further recite that "the two elongated edge portion form part of the peripheral portion of the first grasping plate". Support for these new claims can be found at, for example, Figs. 2-4 and 8-12.

With respect to the rejections, Applicants assert that a surgical holder as defined by the currently amended claims requires a first grasping plate having **an opening that is U-shaped or substantially U-shaped**, wherein such shape is defined by **two elongated edge portions which together form the peripheral portion of the opening**. Kees fail to teach or suggest a similarly constructed tissue grasping plate. More specifically, according to the Examiner, the single scallop that is closest to the slot 36 in the aneurysm clip of Kees corresponds to an "elongated end portion" of the edge portion in the claimed invention, which also forms a U-shaped "opening" with an adjacent tooth 32 (see page 3 and the labeled Figure in the outstanding Office Action). However, even assuming these alleged prior art teachings, Kees certainly does not disclose a grasping plate

having two elongated edge portions which together form the peripheral portion of a U-shaped (or substantially U-shaped) opening, as recited by the claimed invention.

Furthermore, as recited in claim 1 and the like, the claimed invention also requires the arrangement of a **"generally tubular"** tissue grasping space when the first and second grasping plates are positioned so as to oppose each other, wherein this tube-like tissue grasping space and the aforesaid U-shaped (or substantially U-shaped) opening are provided at **opposing sides of the grasping member**. Kees is also silent regarding this novel structural feature. In Kees, according to the Examiner, the rounded scallops (30) of a first grasping plate and their matching teeth (32) in a second grasping plate respectively correspond to the "recessed portion" and "curved portion" of the claimed invention (see the Examiner's Remarks on pages 4-8 and the labeled Figures in the Office Action). Accordingly, even if a tissue grasping space is formed between the first grasping plate and the second grasping plate in Kees' invention (using said scallops and their matching teeth as purported by the Examiner), the tissue grasping space thus formed does not resemble a tubular shape, as required by the claimed invention. Also, referring to the labeled Figures in the outstanding Official Action, the U-shape "opening" and "recessed portion" as identified by the Examiner in Kees' invention are not provided on the opposing sides in a grasping plate, as claimed.

In view of the foregoing, Applicants strongly assert that the claimed invention is clearly distinguished from the prior art structure in Kees. As such, Applicants assert that the currently amended claims are novel in view of Kees.

The Examiner next rejects claims 2 and 3 under 35 USC 103(a) as being obvious over Kees and in view of the previously cited Mandel, et al., US Publication No. 2002/0177863 ("Mandel"). Applicants respectfully disagree; however, Applicants amend the claims to expedite prosecution and to clarify the patentable aspects of the claims.

As discussed above, Applicants strongly assert that Kees fails to disclose or suggest a grasping member like that in the claimed invention, which has a first grasping plate including a U-shaped or substantially U-shaped opening defined by two elongated edge portions. Applicants strongly assert that Kees also teaches away from the arrangement of forming a generally tubular tissue grasping space at the opposite end of the aforesaid opening, as in the claimed invention, when the first and grasping plates are positioned to oppose each other.

Applicants also strongly assert that Mandel could not make up the aforementioned deficiencies of Kees. As previously pointed out by the Applicants, Mandel merely relates to a

chevron shaped ligating clip which bears little structural resemblance with the claimed subject matter or the clip disclosed in Kees (see, e.g., Figs. 1 and 2 of Mandel). Moreover, it appears that the Examiner has only relied on Mandel for the purported teaching of an antimicrobial and/or antibiotic coating to the clip surfaces, namely the features recited in pending claims 2 and 3. Thus, Applicants strongly assert that the combination of Kees and Mandel still fails to disclose or suggest all the claimed structural features. As such, Applicants strongly assert that one skilled in the art upon reading Kees and/or Mandel would not have arrived at the claimed invention without substantial inventive efforts.

Furthermore, Applicants strongly assert that the novel structural features of the claimed invention also attain significant effects over the cited prior art. Particularly, in line with Applicants arguments presented on June 11, 2010, Applicants strongly assert that the claimed invention provides multiple ways to safely grasp a tubular tissue, for example: (1) grasping a tubular tissue by inserting a specifically configured, elongated end portion of a first grasping plate into said tubular tissue and further moving the second grasping plate close to the first grasping plate to grasp the tissue more stably (e.g., Example 4 at [00141] in the specification and Figure 11); and (2) using the retaining portion of the first grasping plate and the covering portion of the second grasping plate to grasp a tubular tissue at one point, and using the tubular tissue grasping space formed by the recessed portion of the first grasping plate and the curved portion of the second grasping plate at another point, to stably grasp the tubular tissue (e.g., Example 3 at [00139] in the specification and Figure 10).

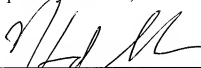
By contrast, Applicants strongly assert that neither Kees nor Mandel teaches a surgical holder for safely grasping a tubular tissue in multiple ways as discussed herein. In view of the above, Applicants strongly assert that the claimed invention is novel and not obvious over the cited art.

Dependent claims 2-3, 7, 9-10, 12-14, and 18-26 variously depend from independent claims 1, 5 and 6, so Applicants assert that dependent claims 2-3, 7, 9-10, 12-14, and 18-26 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

New dependent claims 27-29 variously depend from independent claims 1, 5 and 6, so Applicants assert that new dependent claims 27-29 are differentiated from the cited references for the same reasons as set forth above, in addition to their own respective features.

In view of the above remarks and amendments, Applicants respectfully submit that all pending claims properly set forth that which Applicants regard as their invention and are allowable over the cited references. Accordingly, Applicants respectfully request allowance of the pending claims. The Examiner is invited to telephone the undersigned at the Examiner's convenience, if that would help further prosecution of the subject Application. Applicants authorize and respectfully request that any fees due be charged to Deposit Account No. 19-2814.

Respectfully submitted,



Dated: September 13, 2010

Howard I. Sobelman, Reg. No. 39,038

SNELL & WILMER L.L.P.

400 E. Van Buren
One Arizona Center
Phoenix, Arizona 85004
Phone: 602-382-6228
Fax: 602-382-6070
Email: hsobelman@swlaw.com